

## 18 Am. Jur. 2d Coroners Summary

American Jurisprudence, Second Edition | May 2021 Update

### Coroners or Medical Examiners

Marie K. Pesando, J.D.

### Correlation Table

## Summary

### Scope:

This article discusses the law governing coroners or medical examiners, public officials who are vested with medical-legal duties, particularly the investigation of the causes and circumstances of sudden and violent deaths. It includes the nature of the office of coroner, duties, liabilities of persons holding that office, and procedures relating to the inquest.

### Treated Elsewhere:

Coroner as witness on cause of death, see [Am. Jur. 2d, Expert and Opinion Evidence § 170](#)

Discovery and inspection of autopsy reports in criminal proceedings, see [Am. Jur. 2d, Depositions and Discovery § 281](#)

Disinterment of corpse, see [Am. Jur. 2d, Dead Bodies § 59](#), and [Am. Jur. 2d, Homicide § 409](#)

Freedom of information acts, reports of medical examiner as statutorily exempt, see [Am. Jur. 2d, Freedom of Information Acts § 122](#)

Liability for mistreatment or wrongful disposal of dead body, see [Am. Jur. 2d, Dead Bodies § 79](#)

Performance by coroners of the duties of a sheriff, see [Am. Jur. 2d, Sheriffs, Police and Constables § 32](#)

Use in subsequent prosecution of self-incriminating testimony given by accused at coroner's inquest, see [Am. Jur. 2d, Homicide § 392](#), and [Am. Jur. 2d, Witnesses § 156](#)

Use of an official death certificate as evidence of cause of death in civil and criminal actions, see [Am. Jur. 2d, Death § 328](#), and [Am. Jur. 2d, Evidence §§ 1314, 1382](#)

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## 18 Am. Jur. 2d Coroners I Refs.

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### Coroners or Medical Examiners

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#### I. In General

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## Research References

### West's Key Number Digest

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### A.L.R. Library

A.L.R. Index, Autopsies

A.L.R. Index, Coroners and Medical Examiners

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## 18 Am. Jur. 2d Coroners § 1

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### Coroners or Medical Examiners

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#### I. In General

### § 1. Nature of office and duties

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#### West's Key Number Digest

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#### Trial Strategy

[Wrongful Death of Minor in Police Custody, 69 Am. Jur. Trials 1](#) § 86 (Presenting plaintiff's case—Coroner)

A coroner<sup>1</sup> or medical examiner is a "public officer"<sup>2</sup> acting in a quasi-judicial character.<sup>3</sup> However, coroners are not judges.<sup>4</sup> They do not exercise powers of peace officers, or exercise any other law enforcement powers, and have no authority to bring charges against anyone; rather, they are doctors qualified as pathologists and microscopists.<sup>5</sup> However, in some jurisdictions, a coroner or his or her properly authorized designee may act as an arrest-warrant issuing authority in cases involving either violent or suspicious death.<sup>6</sup>

The duties and authority of a coroner are specifically defined by statute, and he or she can act only within the limit of the statutory authority.<sup>7</sup> The coroner has a statutory duty to determine and certify for proper classification the cause of death.<sup>8</sup> The coroner's function is to investigate and determine whether a decedent has died from violent, unexplained causes, or under suspicious circumstances.<sup>9</sup> The coroner's primary duty is to determine the possibility of violations of criminal law or of the existence of public health hazards in certain cases of death.<sup>10</sup> However, the scope of the coroner's statutory duty to investigate is the same regardless of whether the death resulted from criminal activity.<sup>11</sup> A medical examiner, while ascertaining the "cause and manner of death," should ensure that the individual is, in fact, dead where questions have been raised as to whether the individual is actually alive; however, the failure to investigate in such a scenario does not place the medical examiner outside the scope of his authority.<sup>12</sup>

Because the office of coroner is a constitutional office provided for in the judicial branch of state government, the person occupying the office acts in the name, and on behalf, of the State when performing his or her duties. Thus, the legal relationship between a coroner and the State is a contract of onerous mandate.<sup>13</sup> However, a medical examiner has no constitutional duty to keep investigating a crime once he or she has established a probable cause for that crime.<sup>14</sup>

Changing ideas as to the efficient administration of criminal justice have resulted in the common-law powers of the coroner being drastically curtailed, or the office abolished, in some jurisdictions with the authority to make inquests and reports being transferred to medical examiners.<sup>15</sup> Where the office of coroner is created by the state constitution and continues to perform state functions, the local governing authority has no power to abolish the office notwithstanding that the coroner has only local jurisdiction in the exercise of his functions.<sup>16</sup> Under statutes in some jurisdictions, the office of coroner may be a part of the duties of justices of the peace,<sup>17</sup> and in other jurisdictions, where the coroner is absent from the county or is unable to attend, his or her duties may be performed by a justice of the peace, and in such case, the justice has the usual powers of the coroner.<sup>18</sup>

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#### Footnotes

1 Everman v. Davis, 54 Ohio App. 3d 119, 561 N.E.2d 547 (2d Dist. Montgomery County 1989), dismissed, 43 Ohio St. 3d 702, 539 N.E.2d 163 (1989).  
A coroner was known in the Latin of the Middle Ages as "coronator," from corona, the crown, and was so called because he took cognizance only of the pleas of the Crown and was the principal conservator of the peace. *Gavagan v. Marshall*, 160 Fla. 154, 33 So. 2d 862 (1948).

2 Epps v. Duke University, Inc., 116 N.C. App. 305, 447 S.E.2d 444, 93 Ed. Law Rep. 1002 (1994).  
A coroner is an elected county official rather than a state officer. *Liddell v. State*, 182 Misc. 2d 133, 697 N.Y.S.2d 237 (Ct. Cl. 1999), aff'd, 278 A.D.2d 928, 718 N.Y.S.2d 923 (4th Dep't 2000).  
A chief medical examiner is a state officer, and the services provided by the office of the chief medical examiner are statewide services. *State ex rel. Jordan v. City of Bethany*, 1989 OK 30, 769 P.2d 164 (Okla. 1989).

3 Polkey v. City of New Orleans, 557 So. 2d 405 (La. Ct. App. 4th Cir. 1990), writ denied, 559 So. 2d 1375 (La. 1990); Everman v. Davis, 54 Ohio App. 3d 119, 561 N.E.2d 547 (2d Dist. Montgomery County 1989), dismissed, 43 Ohio St. 3d 702, 539 N.E.2d 163 (1989).  
Coroners are members of the judicial branch of government, and although their jurisdiction is limited to the parish in which they hold office, coroners are state officials who perform state functions. *Regions Bank v. Parish of Caddo*, 978 So. 2d 494 (La. Ct. App. 2d Cir. 2008), writ denied, 983 So. 2d 897 (La. 2008).

4 Matter of Inquiry Concerning a Judge No. 1419, 259 Ga. 831, 388 S.E.2d 683 (1990).  
The powers and duties of coroners are not judicial. *McKinney v. Okoye*, 282 Neb. 880, 806 N.W.2d 571 (2011).

5 People v. Smith, 206 A.D.2d 102, 618 N.Y.S.2d 649 (1st Dep't 1994), aff'd, 85 N.Y.2d 1016, 630 N.Y.S.2d 971, 654 N.E.2d 1219 (1995) and order aff'd, 85 N.Y.2d 1018, 631 N.Y.S.2d 280, 655 N.E.2d 393 (1995) and order aff'd, 85 N.Y.2d 1019, 631 N.Y.S.2d 280, 655 N.E.2d 394 (1995) and order aff'd, 85 N.Y.2d 1020, 631 N.Y.S.2d 281, 655 N.E.2d 394 (1995).

6 Com. v. Taylor, 2007 PA Super 282, 933 A.2d 1035 (2007).

7 Gillikin v. U. S. Fidelity & Guaranty Co. of Baltimore, Md., 254 N.C. 247, 118 S.E.2d 606 (1961).

8 Benson v. Superior Court, 185 Cal. App. 4th 1179, 111 Cal. Rptr. 3d 27 (1st Dist. 2010); *Penn Jersey Advance, Inc. v. Grim*, 910 A.2d 120 (Pa. Commw. Ct. 2006), decision rev'd on other grounds, 599 Pa. 534, 962 A.2d 632 (2009); *Davis v. Texas Emp. Ins. Ass'n*, 516 S.W.2d 452 (Tex. Civ. App. El Paso 1974).  
Statute authorizing the Office of Chief Medical Examiner (OCME) or its designee to conduct autopsies and to "carefully inquire into the cause and circumstances of the death" authorizes OCME or its designee to

do anything that is reasonably medically necessary to determine the cause of death. [Macrelli v. Children's Hosp.](#), 451 Mass. 690, 888 N.E.2d 940 (2008).

9 [Macurdy v. Faure](#), 176 P.3d 880 (Colo. App. 2007).

10 [Sizemore v. West Jefferson General Hospital](#), 260 So. 2d 800 (La. Ct. App. 4th Cir. 1972).

11 [People v. Dungo](#), 55 Cal. 4th 608, 147 Cal. Rptr. 3d 527, 286 P.3d 442 (2012), as modified on denial of reh'g, (Dec. 12, 2012).

12 [Green v. Kearney](#), 203 N.C. App. 260, 690 S.E.2d 755 (2010).

13 [Hoag v. State ex rel. Kennedy](#), 836 So. 2d 207 (La. Ct. App. 1st Cir. 2002), writ denied, 840 So. 2d 570 (La. 2003).

14 [Kompare v. Stein](#), 801 F.2d 883 (7th Cir. 1986).

The coroner owes no duty to a plaintiff to assist him in a medical malpractice claim against a hospital.

[Sizemore v. West Jefferson General Hospital](#), 260 So. 2d 800 (La. Ct. App. 4th Cir. 1972).

15 [Gahn v. Leary](#), 318 Mass. 425, 61 N.E.2d 844 (1945); [Schultz v. Milwaukee County](#), 245 Wis. 111, 13 N.W.2d 580 (1944).

16 [Mullins v. State](#), 387 So. 2d 1151 (La. 1980).

17 [Gavagan v. Marshall](#), 160 Fla. 154, 33 So. 2d 862 (1948); [McClelland v. Great Southern Life Ins. Co.](#), 220 S.W.2d 515 (Tex. Civ. App. Beaumont 1949), writ refused n.r.e.

18 [State v. Mackles](#), 161 La. 187, 108 So. 410 (1926); [Faucett v. State](#), 1913 OK CR 269, 10 Okla. Crim. 111, 134 P. 839 (1913).

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## 18 Am. Jur. 2d Coroners § 2

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### Coroners or Medical Examiners

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#### I. In General

### § 2. Election and qualification

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#### West's Key Number Digest

West's Key Number Digest, [Coroners](#)  3

The appointment or election of coroners, their qualifications, and terms of office are generally provided for by statute or constitution.<sup>1</sup> Usually they are county or public officers and are elected by the qualified voters of the county.<sup>2</sup> A doctor whose term of office as a coroner has expired, but who has color or right to the office by reason of his or her original appointment, has the qualifications for coroner, is in possession of the office and exercising the duties thereof, and is believed to be coroner and relied on as coroner by the general public and public authorities is a *de facto* officer whose acts are valid insofar as they involve the interest of the public and a third person.<sup>3</sup>

A coroner, in order to qualify for office, may be required to give a bond for the faithful performance of his or her duties as required by statute.<sup>4</sup>

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#### Footnotes

<sup>1</sup> [Williams v. State](#), 129 So. 3d 934 (Miss. Ct. App. 2013), cert. dismissed, [131 So. 3d 577](#) (Miss. 2014); [Smith v. Chuckrow](#), 158 Misc. 273, 284 N.Y.S. 459 (Sup 1935); [Gillikin v. U. S. Fidelity & Guaranty Co. of Baltimore, Md.](#), 254 N.C. 247, 118 S.E.2d 606 (1961); [In re D.J.R.](#), 319 S.W.3d 759 (Tex. App. El Paso 2010).

A special act creating a board of county commissioners and delegating to them specific power and authority to fill vacancies in county offices does not offend constitutional provisions that laws of general nature shall have uniform operation throughout the state and that no special laws shall be enacted in any case for which provision has been made by existing general law; thus, even though the general law gives the probate judge of each county authority to fill vacancies in the office of coroner, the commissioners have authority to appoint the coroner. [Williams v. Richmond County](#), 241 Ga. 89, 243 S.E.2d 55 (1978).

A requirement that a candidate for the office of coroner must be a physician licensed to practice within the state is not rendered unconstitutional as a denial of equal protection by a qualifying provision allowing a layman to be a candidate in counties in which no licensed physician is interested in seeking the office where the State has a rational basis for requiring professional qualifications for the office and the classification of a licensed physician versus an unlicensed physician or layman is reasonable, not arbitrary, and substantially related to the requirement. [Jones v. LaBarbera](#), 342 So. 2d 1125 (La. Ct. App. 2d Cir. 1977), writ denied, 341 So. 2d 1130 (La. 1977).

2                   [Kahn v. Sutro](#), 114 Cal. 316, 46 P. 87 (1896) (overruled on other grounds by, [Rand v. Collins](#), 214 Cal. 168, 4 P.2d 529 (1931)).

A doctor was qualified to run for parish coroner where he was registered to vote in the parish by virtue of a home which qualified as a residence even though his domicile was in another parish. [Miller v. Poimboeuf](#), 514 So. 2d 484 (La. Ct. App. 3d Cir. 1987).

3                   [State v. Miller](#), 222 Kan. 405, 565 P.2d 228 (1977).

4                   [Gillikin v. U. S. Fidelity & Guaranty Co. of Baltimore, Md.](#), 254 N.C. 247, 118 S.E.2d 606 (1961).

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## 18 Am. Jur. 2d Coroners § 3

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### Coroners or Medical Examiners

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#### I. In General

### § 3. Compensation and fees

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#### West's Key Number Digest

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#### Forms

Forms relating to fees, generally, see Am. Jur. Pleading and Practice Forms—Coroners or Medical Examiners [\[Westlaw® Search Query\]](#)

The decision on whether a particular coroner is compensated with fees only, salary only, or a combination of the two lies within the discretion of the governing bodies.<sup>1</sup> Thus, the right to and extent of a coroner's compensation is generally specified and limited by statute<sup>2</sup> to cover all necessary and unavoidable operational expenses so that the coroner's office can properly function, which includes, but is not limited to, office space, office equipment and supplies, office furniture, utilities, janitorial services, and transportation and storage of bodies but not the salaries for ancillary personnel of the coroner's office.<sup>3</sup> However, a coroner is not entitled to compensation or fees where he or she holds an inquest in a case in which he or she has no jurisdiction<sup>4</sup> or where he or she proceeds without sufficient cause.<sup>5</sup>

Where a coroner has no ground for suspecting that a death was not a natural one, the county cannot be compelled to pay the coroner for his or her services in holding an inquest.<sup>6</sup> Sudden death alone will not justify an inquest so as to entitle the coroner to fees, even if he or she is called on by respectable citizens to make it, if there is nothing in the circumstances to indicate that the death was not natural.<sup>7</sup> The coroner stands as an ordinary ministerial officer in respect of his or her claims for allowances. While the fact that he or she has held an inquest may, in view of the presumption of the regularity of official action, create a

presumption that he or she was warranted in so doing, yet when his or her claim against the county is heard, the question is whether a case is made out for the allowance of his or her demand.<sup>8</sup>

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Footnotes

1                   Carriere v. St. Landry Parish Police Jury, 707 So. 2d 979 (La. 1998).

2                   State ex rel. Mahon v. Cary, 143 Fla. 330, 196 So. 694 (1940).

Under the state constitution, the legislature has the right to set the minimum salary payable to coroners.

[Carey v. Washington County Fiscal Court, 575 S.W.2d 161 \(Ky. Ct. App. 1978\).](#)

As to compensation of a physician performing an autopsy for a coroner, see § 14.

A justice of the peace performing the functions of a coroner who only made an investigation to determine whether an inquest was necessary and, having reached the conclusion that there was no evidence of foul play, determined the question in the negative, and held no inquest, was not entitled to the statutory fee for "an inquest on a dead body, including certifying and returning the proceedings to the proper court." [Pierson v. Galveston County, 131 S.W.2d 27 \(Tex. Civ. App. Austin 1939\).](#)

3                   Carriere v. St. Landry Parish Police Jury, 707 So. 2d 979 (La. 1998).

Reasonable attorney's fee expenses incurred by the coroner in a mandamus action to compel a police jury to provide the proper funding for his office were "necessary or unavoidable expenses ... incident to the operation and functioning of the office," and thus, the police jury had to pay those expenses. [Perron v. Evangeline Parish Police Jury, 798 So. 2d 67 \(La. 2001\).](#)

4                   Young v. Pulaski County, 74 Ark. 183, 85 S.W. 229 (1905).

The State may prescribe conditions precedent for the holding of an inquest for pay. [Gavagan v. Marshall, 160 Fla. 154, 33 So. 2d 862 \(1948\).](#)

5                   Stults v. Board of Com'rs of Allen County, 168 Ind. 539, 81 N.E. 471 (1907).

6                   City of Ashland v. Miller, 283 S.W.2d 195 (Ky. 1955).

7                   City of Ashland v. Miller, 283 S.W.2d 195 (Ky. 1955).

8                   Stults v. Board of Com'rs of Allen County, 168 Ind. 539, 81 N.E. 471 (1907).

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## 18 Am. Jur. 2d Coroners § 4

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### Coroners or Medical Examiners

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### § 4. Liability

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#### West's Key Number Digest

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[Civil Liability in Conjunction with Autopsy](#), 97 A.L.R.5th 419

[Recovery for emotional distress resulting from statement of medical practitioner or official, allegedly constituting outrageous conduct](#), 34 A.L.R.4th 688

[Validity, construction, and application of statutes making it a criminal offense to mistreat or wrongfully dispose of dead body](#), 81 A.L.R.3d 1071

#### Forms

Forms relating to liability of coroner or medical examiner; injunctive relief, generally, see Am. Jur. Pleading and Practice Forms—Coroners or Medical Examiners [\[Westlaw® Search Query\]](#)

Medical examiners enjoy the same official immunity as other public officials.<sup>1</sup> A coroner's duties are discretionary, and in the absence of bad faith or corrupt motive, he or she is protected by limited immunity from ordinary civil liability.<sup>2</sup> Thus, a coroner is entitled to governmental immunity if sued in his or her official capacity.<sup>3</sup> A county medical examiner's office may be

immune from tort liability for a nonconsensual autopsy performed on an automobile accident victim even if another physician has already certified the cause of the victim's death.<sup>4</sup>

Public policy prohibits an action for damages for a coroner's refusal to call an inquest.<sup>5</sup> A county medical examiner's decision not to order an autopsy to declare a cause of death has been protected by governmental immunity on the ground that such decision is discretionary.<sup>6</sup> In determining whether governmental immunity applies to coroners or medical examiners, courts have used a ministerial-discretionary-acts test<sup>7</sup> or a scope-of-employment test.<sup>8</sup>

Injunctive relief is available where a coroner exceeds his or her statutory authority.<sup>9</sup>

A statute providing that a coroner shall take certain steps respecting the cause and manner of death for any person who has died under certain specified circumstances does not create a private cause of action to recover damages against a coroner or a county for failure to perform an autopsy.<sup>10</sup>

A coroner does not have a special relationship with family members of a deceased and, thus, does not owe a fiduciary duty to family members of a deceased person not to lose, misplace, or misappropriate the deceased person's organs, or to inform family members of the organs' whereabouts, such as to support a claim for emotional distress.<sup>11</sup>

**Observation:**

Any breach of duty arising from the performance of an autopsy and the preparation of the autopsy report cannot be the basis for a cause of action sounding in healing-art malpractice.<sup>12</sup>

## CUMULATIVE SUPPLEMENT

**Cases:**

Children of mother whose death was declared a suicide had no constitutional procedural due process rights or liberty interest in their mother's reputation and, thus, failed to state a valid claim against county coroner on that basis under § 1983. [U.S. Const. Amend. 14; 42 U.S.C.A. § 1983. Skipper v. Clark, 150 F. Supp. 3d 820 \(W.D. Ky. 2015\).](#)

Presence and involvement of county coroner's husband in shooting victim's death investigation did not shock the conscience, as required to support substantive due process claims brought by victim's family members; coroner had delegated authority to husband to investigate death scenes, and even if that delegation violated Ohio nepotism laws, such a violation was insufficient to establish a substantive due process violation. [U.S.C.A. Const. Amend. 14; Ohio R.C. § 313.05\(A\)\(3\). Elfers v. Varnau, 101 F. Supp. 3d 753 \(S.D. Ohio 2015\).](#)

County coroner's prevention of an investigation into shooting victim's death, which coroner ruled was a suicide, did not shock the conscience, as required to support substantive due process claims brought by victim's family members; family members

did not allege that there was a cover-up of the true cause of victim's death, but instead claimed that, because of a feud with the county sheriff, coroner made a false determination that victim's death was a suicide to prevent the sheriff from conducting further investigation, and while coroner's failure to investigate certain inconsistencies may have been negligent, it did not shock the conscience. [U.S.C.A. Const. Amend. 14. Elfers v. Varnau](#), 101 F. Supp. 3d 753 (S.D. Ohio 2015).

Coroners are county officials, not state officers, for purposes of Georgia Tort Claim Act (GTCA), which provides immunity to state officers. West's [Ga. Code Ann. §§ 45–16–1, 45–16–5, 45–16–7\(a, c\), 45–16–8, 45–16–11\(a\)\(1\), 45–16–11.2, 45–16–80\(e\), 50–21–22\(7\), 50–21–25\(a\)](#). [Crosby v. Johnson](#), 334 Ga. App. 417, 779 S.E.2d 446 (2015).

Parents, individually and on behalf of their minor children and their deceased child, sufficiently alleged cause of action for negligence against coroner; parents alleged that coroner failed to issue mandated certificate stating cause of death of child who died shortly after admission to hospital, and alleged that coroner misplaced body for a long period of time and then cremated and buried body without notifying family, thus preventing them from obtaining independent autopsy or providing burial. [LSA-R.S. 13:5713\(A\)\(1–3, 7\), \(E\)\(1\)](#). [Simmons v. State, Dept. of Children and Family Services](#), 171 So. 3d 1147 (La. Ct. App. 4th Cir. 2015).

## [END OF SUPPLEMENT]

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### Footnotes

- 1 [Kichnet v. Butte-Silver Bow County](#), 2012 MT 68, 364 Mont. 347, 274 P.3d 740 (2012); [Winkle v. Zettler Funeral Homes, Inc.](#), 182 Ohio App. 3d 195, 2009-Ohio-1724, 912 N.E.2d 151 (12th Dist. Butler County 2009); [Heikkila v. Harris County](#), 973 S.W.2d 333 (Tex. App. Tyler 1998).
- 2 [Everman v. Davis](#), 54 Ohio App. 3d 119, 561 N.E.2d 547 (2d Dist. Montgomery County 1989), dismissed, 43 Ohio St. 3d 702, 539 N.E.2d 163 (1989).  
A judicial officer cannot be held accountable in an action for damages for the manner in which he or she performs his or her duties even though it is alleged that he or she acted corruptly or maliciously. [Gillikin v. U. S. Fidelity & Guaranty Co. of Baltimore](#), Md., 254 N.C. 247, 118 S.E.2d 606 (1961).
- 3 [Green v. Kearney](#), 203 N.C. App. 260, 690 S.E.2d 755 (2010).  
For the purposes of public-duty doctrine, a county medical examiner is a public official. [Reno v. Chung](#), 220 Mich. App. 102, 559 N.W.2d 308 (1996), decision aff'd, 461 Mich. 109, 597 N.W.2d 817 (1999).  
Statute shielding the employees of the Office of the Chief Medical Examiner (OCME) from liability for lawfully disclosing an autopsy report or any part thereof applied to a medical examiner who allegedly was an independent contractor for the OCME but who signed an autopsy report in his capacity as a medical examiner. [LeBlanc v. Com.](#), 457 Mass. 94, 927 N.E.2d 1017 (2010).  
As to removal from office, see § 6.  
As to liability for mistreatment or wrongful disposal of dead body, see [Am. Jur. 2d, Dead Bodies](#) § 79.  
As to judicial acts, see § 8.
- 4 [Burse v. Wayne County Medical Examiner](#), 151 Mich. App. 761, 391 N.W.2d 479 (1986).
- 5 [Gillikin v. U. S. Fidelity & Guaranty Co. of Baltimore](#), Md., 254 N.C. 247, 118 S.E.2d 606 (1961).
- 6 [O'Toole v. Fortino](#), 97 Mich. App. 797, 295 N.W.2d 867 (1980).
- 7 [Wright v. Moss](#), 388 Ill. Dec. 795, 25 N.E.3d 78 (App. Ct. 5th Dist. 2015); [O'Toole v. Fortino](#), 97 Mich. App. 797, 295 N.W.2d 867 (1980).  
A state medical examiner's decision to use a rented refrigeration unit when the Department of Forensic Sciences' facilities were insufficient was a discretionary act rather than a ministerial one, and therefore, the medical examiner was protected by qualified immunity in a tort action for the improper handling of a corpse. [Ex parte Alabama Dept. of Forensic Sciences](#), 709 So. 2d 455 (Ala. 1997).  
As to the liability of public officers, see [Am. Jur. 2d, Public Officers and Employees](#) §§ 295 to 377.

8                    [McIntosh v. Becker](#), 111 Mich. App. 692, 314 N.W.2d 728, 2 Ed. Law Rep. 218 (1981); [Fullum v. Columbiana County Coroner](#), 2014-Ohio-5512, 25 N.E.3d 463 (Ohio Ct. App. 7th Dist. Columbiana County 2014).

9                    [Rehling v. Carr](#), 295 Ala. 366, 330 So. 2d 423 (1976) (where coroner has no statutory authority to withdraw blood sample from automobile-accident victim, injunctive relief compelling return of blood sample to surviving spouse granted).

10                  [Macurdy v. Faure](#), 176 P.3d 880 (Colo. App. 2007).

11                  [Boorman v. Nevada Mem'l Cremation Society](#), 236 P.3d 4, 126 Nev. Adv. Op. No. 29 (Nev. 2010).

12                  [Milos v. Hall](#), 325 Ill. App. 3d 180, 258 Ill. Dec. 965, 757 N.E.2d 654 (5th Dist. 2001).

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## 18 Am. Jur. 2d Coroners § 5

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### Coroners or Medical Examiners

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#### I. In General

### § 5. Liability—Unauthorized or wrongful autopsy

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[Liability for wrongful autopsy, 18 A.L.R.4th 858](#)

#### Trial Strategy

[Autopsies, 98 Am. Jur. Proof of Facts 3d 87](#)

#### Forms

Forms relating to request for autopsy, see Am. Jur. Legal Forms 2d—Coroners or Medical Examiners; Am. Jur. Pleading and Practice Forms—Coroners or Medical Examiners [\[Westlaw® Search Query\]](#)

Forms relating to unauthorized or wrongful autopsy, see Am. Jur. Pleading and Practice Forms—Coroners or Medical Examiners [\[Westlaw® Search Query\]](#)

An action may not be maintained against a coroner or medical examiner, or against the examining physicians, for the ordering or performing of an autopsy or postmortem examination where the circumstances are such as to render the examination reasonably necessary and proper in the exercise of the duties of such coroner and medical examiners if the work is done in a decent manner, without bad faith, and without wantonly disfiguring the body,<sup>1</sup> notwithstanding the absence of consent by the members of the deceased's family.<sup>2</sup> Conversely, the performance of an autopsy by a coroner in the absence of sufficient facts to bring the case within a statute giving him such a right is a basis for the recovery of damages,<sup>3</sup> including damages for mental suffering, even though there was no wilful and wanton mutilation of the body, the wrongful act itself being the infringement of a legal right.<sup>4</sup> The coroner may seize and search the bodies of dead persons which are in the custody of private citizens after making an application for and obtaining a warrant which recites the jurisdictional facts on which he or she relies to justify the search and seizure.<sup>5</sup>

The burden of proving bad faith in performing the autopsy is on the plaintiff,<sup>6</sup> and it will be presumed that the coroner, as a public officer, has acted in good faith in such respect.<sup>7</sup> The reasonableness of the coroner's conduct in directing performance of the autopsy is a question of fact for the jury.<sup>8</sup> In an action alleging wrongful autopsy, the county medical examiner may have authority to investigate the cause of death even though another physician has already determined the cause, and the medical examiner therefore may be immune from tort liability for wrongful autopsy where the death was violent or unexpected.<sup>9</sup> However, an autopsy may be authorized even though the death is not preceded by an accident or violence.<sup>10</sup>

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#### Footnotes

1 [People v. Harvey, 286 Ill. 593, 122 N.E. 138 \(1919\)](#).  
The coroner or medical examiner may be immune from suit for wrongful autopsy. [Schwalb v. Connely, 116 Colo. 195, 179 P.2d 667 \(1947\)](#).  
As to civil liability for autopsies, in general, see [Am. Jur. 2d, Dead Bodies §§ 45 to 49](#).  
2 [Gray v. Southern Pac. Co., 21 Cal. App. 2d 240, 68 P.2d 1011 \(1st Dist. 1937\)](#); [Gahn v. Leary, 318 Mass. 425, 61 N.E.2d 844 \(1945\)](#); [Cremonese v. City of New York, 17 N.Y.2d 22, 267 N.Y.S.2d 897, 215 N.E.2d 157 \(1966\)](#); [Frick v. McClelland, 384 Pa. 597, 122 A.2d 43 \(1956\)](#).  
A coroner may lawfully order a postmortem examination without the consent of the family of the deceased where death has resulted from an injury which seems to him insufficient alone to produce death. [Young v. College of Physicians & Surgeons of Baltimore City, 81 Md. 358, 32 A. 177 \(1895\)](#).  
3 [Jackson v. Rupp, 228 So. 2d 916 \(Fla. 4th DCA 1969\)](#), decision aff'd, [238 So. 2d 86 \(Fla. 1970\)](#); [Gurganious v. Simpson, 213 N.C. 613, 197 S.E. 163 \(1938\)](#).  
4 [Coty v. Baughman, 50 S.D. 372, 210 N.W. 348, 48 A.L.R. 1205 \(1926\)](#).  
5 [People v. Roehler, 167 Cal. App. 3d 353, 213 Cal. Rptr. 353 \(2d Dist. 1985\)](#).  
6 [Gahn v. Leary, 318 Mass. 425, 61 N.E.2d 844 \(1945\)](#).  
7 [Hirko v. Reese, 351 Pa. 238, 40 A.2d 408 \(1945\)](#).  
8 [Brown v. Broome County, 8 N.Y.2d 330, 207 N.Y.S.2d 657, 170 N.E.2d 666, 83 A.L.R.2d 952 \(1960\)](#).  
As to the grounds for the performance of an official autopsy, see § 10.  
9 [Burse v. Wayne County Medical Examiner, 151 Mich. App. 761, 391 N.W.2d 479 \(1986\)](#).  
10 [Gray v. Southern Pac. Co., 21 Cal. App. 2d 240, 68 P.2d 1011 \(1st Dist. 1937\)](#); [Cybart v. Michael Reese Hospital and Medical Center, 50 Ill. App. 3d 411, 8 Ill. Dec. 616, 365 N.E.2d 1002 \(1st Dist. 1977\)](#); [Cremonese v. City of New York, 17 N.Y.2d 22, 267 N.Y.S.2d 897, 215 N.E.2d 157 \(1966\)](#); [Hirko v. Reese, 351 Pa. 238, 40 A.2d 408 \(1945\)](#).

## 18 Am. Jur. 2d Coroners § 6

American Jurisprudence, Second Edition | May 2021 Update

### Coroners or Medical Examiners

Marie K. Pesando, J.D.

#### I. In General

### § 6. Removal and reinstatement

[Topic Summary](#) | [Correlation Table](#) | [References](#)

#### West's Key Number Digest

West's Key Number Digest, [Coroners](#)  6

A chief medical examiner can be removed from office for cause on a general finding of poor performance, including neglect of duty, incompetence, inefficiency, or poor supervision, and a showing of misfeasance, malfeasance, or wilful neglect of duty is not required.<sup>1</sup>

A discharged state medical examiner may not be entitled to reinstatement to his or her old position following a successful claim that he or she was denied due process by being terminated without a hearing where the examiner asserted no other substantive right coexisting with his or her right to due process.<sup>2</sup>

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#### Footnotes

<sup>1</sup> [Flomenbaum v. Com.](#), 451 Mass. 740, 889 N.E.2d 423 (2008).

<sup>2</sup> [Brady v. Gebbie](#), 859 F.2d 1543 (9th Cir. 1988).

As to the termination, suspension, or other adverse actions as to the office or employment, see [Am. Jur. 2d, Public Officers and Employees §§ 151 to 223](#).

## 18 Am. Jur. 2d Coroners II Refs.

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Coroners or Medical Examiners

Marie K. Pesando, J.D.

### II. Inquests

[Topic Summary](#) | [Correlation Table](#)

## Research References

### West's Key Number Digest

West's Key Number Digest, [Coroners](#) 8 to 17, 22

### A.L.R. Library

A.L.R. Index, Autopsies

A.L.R. Index, Coroners and Medical Examiners

West's A.L.R. Digest, [Coroners](#) 8 to 17, 22

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## 18 Am. Jur. 2d Coroners § 7

American Jurisprudence, Second Edition | May 2021 Update

### Coroners or Medical Examiners

Marie K. Pesando, J.D.

#### II. Inquests

### § 7. Generally; nature and necessity

[Topic Summary](#) | [Correlation Table](#) | [References](#)

#### West's Key Number Digest

West's Key Number Digest, [Coroners](#) 9.1, 10

#### A.L.R. Library

[Disinterment in criminal cases, 63 A.L.R.3d 1294](#)

#### Forms

Forms relating to interment or disinterment, see Am. Jur. Pleading and Practice Forms—Coroners or Medical Examiners  
[\[Westlaw® Search Query\]](#)

An "inquest proceeding" is a statutorily authorized, nonbinding inquiry into the death of an individual, traditionally conducted by the coroner, to determine the cause of death.<sup>1</sup> An inquest is not part of any criminal proceedings which may ensue; its purpose is to aid in the achievement of justice by obtaining information as to whether a crime has been committed.<sup>2</sup> It is within the State's power, acting through the legislature, to prescribe when an inquest shall be held.<sup>3</sup> Statutes usually provide for inquests in cases in which death is due, or is supposed to be due, to violence or other unlawful means.<sup>4</sup> The main purpose is to ascertain, if possible, if the death being investigated was due to other than natural causes.<sup>5</sup> A coroner's inquest is not meant to be an adversary proceeding but a means by which the executive determines the cause of death.<sup>6</sup> An inquest serves a fact-finding and

investigatory function rather than an adjudicatory one.<sup>7</sup> The object is to obtain information as to whether death was caused by some criminal act and to obtain evidence to prevent the escape of the guilty,<sup>8</sup> as well as to furnish the foundation for a criminal prosecution in case death is shown to be felonious.<sup>9</sup> The object of an inquest is not only to determine the cause of death but also to exclude other supposable or possible causes.<sup>10</sup> Although inquests combine functions that can be described as both judicial and executive, they are not so central to the mission of either branch as to impermissibly interfere with the integrity of the other.<sup>11</sup>

It is necessary for a coroner to determine whether a statute contemplates the holding of an inquest in a particular case. When the statute speaks in general terms and does not specify the kind of information on which he or she is justified in acting, the coroner must necessarily be vested with discretion. Generally speaking, the determination of the question whether an inquest shall be held rests, within certain limits, in the sound discretion of the coroner.<sup>12</sup>

A coroner investigates deaths whenever a body is found or when a person dies under apparently unusual, unnatural, or suspicious circumstances.<sup>13</sup> If there is reasonable ground to suspect that a death was felonious<sup>14</sup> or if there is a question as to the cause of death,<sup>15</sup> it is the duty of the coroner to act. If from the investigation into a sudden, violent, or suspicious death, it is evident that the death resulted from the criminal acts of persons other than the deceased, no inquest is necessary.<sup>16</sup> In fact, it would be superfluous.<sup>17</sup> Likewise, if a coroner is satisfied from the investigation into a sudden, violent, or suspicious death that the death was the result of suicide, no inquest is necessary.<sup>18</sup> The cause of death may be shrouded in such mystery as to warrant the tentative assumption that death was occasioned in a manner that would justify the holding of an inquest to subserve the public ends.<sup>19</sup> Further, an inquest is for the purpose of protecting the public interest and is not for the protection of an offender suspected of the crime, and is definitely not a necessary ingredient of due process. A defendant in a murder case is not legally prejudiced by, and has no cause to complain of, the failure to hold an inquest.<sup>20</sup>

The coroner's duty and power to hold an inquest rest on sound reason and are not to be exercised capriciously and arbitrarily.<sup>21</sup> It is the duty of a coroner to determine the reasonable and true cause of death. However, he or she does not resolve other facts or the legal or criminal responsibility of those involved.<sup>22</sup>

Whenever an inquest is held, the law raises a rebuttable presumption that the coroner has acted in good faith and on sufficient cause.<sup>23</sup>

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#### Footnotes

- 1 [In re Boston](#), 112 Wash. App. 114, 47 P.3d 956 (Div. 1 2002).
- 2 [In re Globe Newspaper Co., Inc.](#), 461 Mass. 113, 958 N.E.2d 822 (2011).
- 3 [Gavagan v. Marshall](#), 160 Fla. 154, 33 So. 2d 862 (1948).
- 4 [State ex rel. Mahon v. Cary](#), 143 Fla. 330, 196 So. 694 (1940); [Peoria Cordage Co. v. Industrial Board of Ill.](#), 284 Ill. 90, 119 N.E. 996 (1918); [City of Ashland v. Miller](#), 283 S.W.2d 195 (Ky. 1955); [Gillikin v. U. S. Fidelity & Guaranty Co. of Baltimore](#), Md., 254 N.C. 247, 118 S.E.2d 606 (1961); [Com. v. Taylor](#), 2007 PA Super 282, 933 A.2d 1035 (2007); [State v. Halvorsen](#), 79 S.D. 209, 110 N.W.2d 132 (1961).  
A trial court is exercising its discretion when acting upon a motion to disinter a body and autopsy it where there is no pertinent disinterment statute. [Esgro v. Trezza](#), 492 So. 2d 422 (Fla. 4th DCA 1986).
- 5 [Com. ex rel. Czako v. Maroney](#), 412 Pa. 448, 194 A.2d 867 (1963).
- 6 [In re Boston](#), 112 Wash. App. 114, 47 P.3d 956 (Div. 1 2002).
- 7 [Hernandez v. Bennett-Haron](#), 287 P.3d 305, 128 Nev. Adv. Op. No. 54 (Nev. 2012).

8                   Jacobson v. Superior Court In and For Pima County, 1 Ariz. App. 342, 402 P.2d 1018 (1965); Young v. Pulaski County, 74 Ark. 183, 85 S.W. 229 (1905); City of Ashland v. Miller, 283 S.W.2d 195 (Ky. 1955); Com. ex rel. Czako v. Maroney, 412 Pa. 448, 194 A.2d 867 (1963); State v. Halvorsen, 79 S.D. 209, 110 N.W.2d 132 (1961).

9                   Mar Shee v. Maryland Assur. Corp., Baltimore, 190 Cal. 1, 210 P. 269 (1922); State v. Halvorsen, 79 S.D. 209, 110 N.W.2d 132 (1961); Parsons v. State, 160 Tex. Crim. 387, 271 S.W.2d 643 (1953); Pierson v. Galveston County, 131 S.W.2d 27 (Tex. Civ. App. Austin 1939).

10                  Gray v. Southern Pac. Co., 21 Cal. App. 2d 240, 68 P.2d 1011 (1st Dist. 1937).

11                  Carrick v. Locke, 125 Wash. 2d 129, 882 P.2d 173 (1994).

12                  Potter v. City, 257 Ark. 276, 516 S.W.2d 597 (1974); Com. ex rel. Czako v. Maroney, 412 Pa. 448, 194 A.2d 867 (1963); Fishbeck v. State, 154 Tex. Crim. 186, 225 S.W.2d 854 (1948); Pierson v. Galveston County, 131 S.W.2d 27 (Tex. Civ. App. Austin 1939).

13                  Heltzel v. Thomas, 516 N.E.2d 103 (Ind. Ct. App. 1987).

14                  Peoria Cordage Co. v. Industrial Board of Ill., 284 Ill. 90, 119 N.E. 996 (1918); Stults v. Board of Com'r's of Allen County, 168 Ind. 539, 81 N.E. 471 (1907).

15                  There ought to be a reasonable suspicion that it was caused by violent or unnatural means. Potter v. City, 257 Ark. 276, 516 S.W.2d 597 (1974); City of Ashland v. Miller, 283 S.W.2d 195 (Ky. 1955).

16                  Benson v. Superior Court, 185 Cal. App. 4th 1179, 111 Cal. Rptr. 3d 27 (1st Dist. 2010).

17                  Nader v. Hughes, 164 Pa. Commw. 434, 643 A.2d 747 (1994).

18                  Com. ex rel. Czako v. Maroney, 412 Pa. 448, 194 A.2d 867 (1963).

19                  If a person is murdered in the presence of witnesses by one known to the witnesses, there is no authority to hold the inquest. Faust v. State, 1913 OK CR 269, 10 Okla. Crim. 111, 134 P. 839 (1913).

20                  The fact that there was a great number of other persons present when one was killed by a mob does not necessarily imply that there were witnesses present, and such fact has been held not sufficient to make a coroner's inquest unjustifiable. Floyd County v. Miller, 4 Ga. App. 1, 60 S.E. 823 (1908).

21                  Nader v. Hughes, 164 Pa. Commw. 434, 643 A.2d 747 (1994).

22                  Stults v. Board of Com'r's of Allen County, 168 Ind. 539, 81 N.E. 471 (1907).

23                  Com. ex rel. Czako v. Maroney, 412 Pa. 448, 194 A.2d 867 (1963).

24                  Since inquests are for the benefit of the sovereign and not for private interest, the sovereignty may prescribe the conditions precedent for holding inquests, and the conditions under which inquests may be dispensed with or excused. Gavagan v. Marshall, 160 Fla. 154, 33 So. 2d 862 (1948).

25                  Gray v. Southern Pac. Co., 21 Cal. App. 2d 240, 68 P.2d 1011 (1st Dist. 1937); Vanderpool v. Rabideau, 16 Wash. App. 496, 557 P.2d 21 (Div. 3 1976).

26                  A coroner is not authorized to hold an inquest upon one who clearly died from a natural cause. Coty v. Baughman, 50 S.D. 372, 210 N.W. 348, 48 A.L.R. 1205 (1926).

27                  In case of a gross abuse of discretion, an injunction may issue to prevent the coroner from holding an inquest, but a writ of prohibition will be denied on the ground that another adequate remedy exists. State ex rel. Harrison v. Perry, 113 Ohio St. 641, 4 Ohio L. Abs. 13, 150 N.E. 78 (1925).

28                  Everman v. Davis, 54 Ohio App. 3d 119, 561 N.E.2d 547 (2d Dist. Montgomery County 1989), dismissed, 43 Ohio St. 3d 702, 539 N.E.2d 163 (1989).

29                  Potter v. City, 257 Ark. 276, 516 S.W.2d 597 (1974).

## 18 Am. Jur. 2d Coroners § 8

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### Coroners or Medical Examiners

Marie K. Pesando, J.D.

#### II. Inquests

### § 8. Generally; nature and necessity—Judicial nature

[Topic Summary](#) | [Correlation Table](#) | [References](#)

#### West's Key Number Digest

West's Key Number Digest, [Coroners](#)  10

The duty of determining whether an inquest is necessary and the manner of conducting an inquest are judicial functions,<sup>1</sup> partly judicial,<sup>2</sup> or quasi-judicial.<sup>3</sup> Proceedings at an inquest are intended to be merely a preliminary investigation and not a trial involving the merits.<sup>4</sup> A coroner's findings with respect to the inquest are merely advisory to those charged with the administration of criminal law<sup>5</sup> and a coroner is not a judicial tribunal.<sup>6</sup>

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#### Footnotes

1 [Gillikin v. U. S. Fidelity & Guaranty Co. of Baltimore, Md.](#), 254 N.C. 247, 118 S.E.2d 606 (1961).

2 [Delatte v. Genovese](#), 273 F. Supp. 654 (E.D. La. 1967).

3 [State ex rel. Harrison v. Perry](#), 113 Ohio St. 641, 4 Ohio L. Abs. 13, 150 N.E. 78 (1925).

4 [In re Globe Newspaper Co., Inc.](#), 461 Mass. 113, 958 N.E.2d 822 (2011); [State v. Griffin](#), 98 S.C. 105, 82 S.E. 254 (1914); [Boehme v. Sovereign Camp Woodmen of the World](#), 98 Tex. 376, 84 S.W. 422 (1905); [Mohrhusen v. McCann](#), 62 Wis. 2d 509, 215 N.W.2d 560 (1974).

In cases of violent or suspicious death, a coroner or his properly authorized designee may conduct an inquest in lieu of a preliminary hearing and act as a committing magistrate. [Com. v. Taylor](#), 2007 PA Super 282, 933 A.2d 1035 (2007).

5 [Com. v. Martin](#), 1999 PA Super 29, 727 A.2d 1136 (1999) (overruled on other grounds by, [Com. v. Mouzon](#), 571 Pa. 419, 812 A.2d 617 (2002)).

6 [Newlon v. Alexander](#), 167 Wash. App. 195, 272 P.3d 903 (Div. 3 2012).

## 18 Am. Jur. 2d Coroners § 9

American Jurisprudence, Second Edition | May 2021 Update

Coroners or Medical Examiners

Marie K. Pesando, J.D.

### II. Inquests

#### § 9. Territorial jurisdiction; place of holding inquest

[Topic Summary](#) | [Correlation Table](#) | [References](#)

##### West's Key Number Digest

West's Key Number Digest, [Coroners](#)  11

Statutory provisions in most states determine the proper place for holding inquests.<sup>1</sup> The finding of a body, where the circumstances of the death are unknown, may give the coroner within whose jurisdiction the body is found authority to start an inquiry into the cause of death. However, if the body is sent to another county for interment, the coroner of the latter county has no jurisdiction.<sup>2</sup>

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##### Footnotes

1 [Com. ex rel. Czako v. Maroney](#), 412 Pa. 448, 194 A.2d 867 (1963).

2 [Young v. Pulaski County](#), 74 Ark. 183, 85 S.W. 229 (1905).

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## 18 Am. Jur. 2d Coroners § 10

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### Coroners or Medical Examiners

Marie K. Pesando, J.D.

### II. Inquests

## § 10. Autopsy

[Topic Summary](#) | [Correlation Table](#) | [References](#)

### West's Key Number Digest

West's Key Number Digest, [Coroners](#)  14

### A.L.R. Library

[Liability for wrongful autopsy, 18 A.L.R.4th 858](#)

### Trial Strategy

[Proof of Survivorship of Common Disaster, 56 Am. Jur. Proof of Facts 3d 255§ 13 \(Death certificate; coroner's report\)](#)

### Forms

Forms relating to autopsy, generally, see Am. Jur. Legal Forms 2d—Coroners or Medical Examiners; Am. Jur. Legal Forms 2d—Dead Bodies; Am. Jur. Pleading and Practice Forms—Coroners or Medical Examiners; Am. Jur. Pleading and Practice Forms—Dead Bodies [\[Westlaw® Search Query\]](#)

The autopsy is an integral part of the inquest.<sup>1</sup> The general purpose of an autopsy is to determine, where there has been a death from an unknown cause, by what means the person met his or her death.<sup>2</sup> There is no interference with the quasi-property right in a decedent's body when the coroner performs a lawful autopsy.<sup>3</sup>

The coroner is the public officer upon whom rests the duty to determine whether an autopsy is necessary.<sup>4</sup> The authority to conduct an autopsy derives solely from statute,<sup>5</sup> and no right to conduct an autopsy exists beyond that authorized by law.<sup>6</sup> Because many persons regard an autopsy with aversion, it may not legally be performed without the consent of the person having the duty to bury the body unless authorized by statute.<sup>7</sup> However, in some jurisdictions, written consent is not required.<sup>8</sup> Although statutes governing authority to coroners to conduct autopsies grant broad discretion, the power is limited to those instances when the statute permits the exercise of authority. Consequently, while a coroner may exercise its sound judgment within the bounds which define its jurisdiction, the broad discretion of a coroner is not unfettered.<sup>9</sup> Where the authority to perform an autopsy is limited by statute, the medical examiner has no power to conduct or order an autopsy absent a statutory basis for the autopsy.<sup>10</sup> Thus, except where a statute otherwise provides, it would appear that autopsies may be legally performed only in those cases where inquests are legally held.<sup>11</sup> When a lawful inquest is being held, and a postmortem examination is deemed necessary, within the limits and under the circumstances defined by statute, the coroner may cause an autopsy to be made.<sup>12</sup> No search warrant or consent from the mother may be required for a medical examiner to conduct an autopsy and blood test on her stillborn fetus.<sup>13</sup>

If the coroner's opinion is that an autopsy is necessary, he or she is required by law to perform the autopsy, to determine the true cause of death and to file a report of its conclusions.<sup>14</sup> Ordinarily, the right of the coroner to perform an autopsy is restricted to cases where death is supposed to have been caused by violent or unlawful means although under some statutes, it may exist where death results from casualty,<sup>15</sup> or where death occurs in a suspicious, unusual, or unnatural manner and when the decedent was in apparent good health.<sup>16</sup> Also, under some statutes, death by violence comprehends death from other than natural causes, including poisoning.<sup>17</sup> Where statutes speak in general terms and do not specify the kind of information on which he is justified in acting, the coroner is necessarily vested with discretion.<sup>18</sup>

An autopsy is authorized only when "necessary."<sup>19</sup> In the absence of bad faith, the determination of the medical examiner within his or her jurisdiction to make and authorize an autopsy cannot be questioned.<sup>20</sup> Thus, a coroner is permitted to consider a death suspicious and order an autopsy even when a primary care physician believes the cause of death is natural.<sup>21</sup> Nevertheless, his or her authority must be reasonably, and not arbitrarily, exercised,<sup>22</sup> and is subject to review by the courts.<sup>23</sup>

On the other hand, where it is clear from the evidence that a child died from certain diseases, the coroner is not authorized to order an autopsy because of the claim that the neglect of the parents had contributed to the death of the child, especially where the evidence shows that there was no neglect.<sup>24</sup> Nor has he or she the power to order an autopsy simply because a person has died of a disease difficult of diagnosis or for the purpose of settling a controversy between attending physicians as to the nature of such disease; the autopsy cannot be justified in the interest of science.<sup>25</sup> Under a statute authorizing an autopsy when necessary to establish cause of death or to determine means or manner of death, an autopsy may not be performed by a county medical examiner over the religious, ethical, or philosophical objections of a decedent's family, absent a showing of genuine necessity for the autopsy.<sup>26</sup> Moreover, where there was no evidence nor any suspicion of criminality or foul play involved in an automobile accident in which the deceased was killed and the deceased's parents were Orthodox Jews whose religious tenets prohibited the performing of an autopsy, determining the cause of death was not sufficiently necessary to justify the performance of an autopsy.<sup>27</sup> However, the compelling interest of the State in knowing when death may have resulted from a criminal act or other acts that might affect the health and well being of its citizens outweighed the interest of a father whose

religion forbade postmortem examinations, and an autopsy could properly be carried out, in keeping with state law requiring an autopsy if necessary to determine the cause of death, following the sudden and unexplained death of the father's 18-year-old son, who had been in apparent good health.<sup>28</sup> Compelling public necessity is required to conduct an autopsy only when a surviving relative or friend objects on religious grounds or there is another reason for the county medical examiner to believe that an autopsy is contrary to the decedent's religious beliefs.<sup>29</sup>

Under some statutes, a coroner has a mandated obligation to turn over a decedent's remains to the next of kin for preservation and proper burial once the legitimate purposes for the retention of those remains have been fulfilled.<sup>30</sup>

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#### Footnotes

1 [Coty v. Baughman](#), 50 S.D. 372, 210 N.W. 348, 48 A.L.R. 1205 (1926).

2 [Sandy v. Board of Com'r's of Morgan County](#), 171 Ind. 674, 87 N.E. 131 (1909); [Gahn v. Leary](#), 318 Mass. 425, 61 N.E.2d 844 (1945); [Crenshaw v. O'Connell](#), 235 Mo. App. 1085, 150 S.W.2d 489 (1941); [Darcy v. Presbyterian Hospital in City of New York](#), 202 N.Y. 259, 95 N.E. 695 (1911); [Gurganious v. Simpson](#), 213 N.C. 613, 197 S.E. 163 (1938).

3 [Benson v. Superior Court](#), 185 Cal. App. 4th 1179, 111 Cal. Rptr. 3d 27 (1st Dist. 2010).

4 [Everman v. Davis](#), 54 Ohio App. 3d 119, 561 N.E.2d 547 (2d Dist. Montgomery County 1989), dismissed, 43 Ohio St. 3d 702, 539 N.E.2d 163 (1989).

5 [Shipley v. City of New York](#), 80 A.D.3d 171, 908 N.Y.S.2d 425 (2d Dep't 2010).

6 [Kellogg v. Office of Chief Medical Examiner of City of New York](#), 189 Misc. 2d 756, 735 N.Y.S.2d 350 (Sup 2001).

7 [Kelly v. Brigham & Women's Hosp.](#), 51 Mass. App. Ct. 297, 745 N.E.2d 969 (2001).

8 [Juseinoski v. New York Hosp. Medical Center of Queens](#), 18 A.D.3d 713, 795 N.Y.S.2d 753 (2d Dep't 2005).

9 [Kellogg v. Office of Chief Medical Examiner of City of New York](#), 189 Misc. 2d 756, 735 N.Y.S.2d 350 (Sup 2001).

10 [Scarpaci v. Milwaukee County](#), 96 Wis. 2d 663, 292 N.W.2d 816, 18 A.L.R.4th 829 (1980).

11 [Sandy v. Board of Com'r's of Morgan County](#), 171 Ind. 674, 87 N.E. 131 (1909); [Finley v. Atlantic Transport Co.](#), 220 N.Y. 249, 115 N.E. 715 (1917); [Darcy v. Presbyterian Hospital in City of New York](#), 202 N.Y. 259, 95 N.E. 695 (1911); [Scarpaci v. Milwaukee County](#), 96 Wis. 2d 663, 292 N.W.2d 816, 18 A.L.R.4th 829 (1980).

12 [Streipe v. Liberty Mut. Ins. Co.](#), 243 Ky. 15, 47 S.W.2d 1004 (1932).  
A limitation on a medical examiner in performing an autopsy after another physician has certified the cause of death is applicable only where the victim did not die violently or unexpectedly and when the victim did not receive medical assistance within 48 hours prior to death, and therefore, the medical examiner had authority to investigate the cause of death even if another physician had already certified the cause of violent or unexpected death. [Burse v. Wayne County Medical Examiner](#), 151 Mich. App. 761, 391 N.W.2d 479 (1986).

13 [Jackson v. State](#), 208 Ga. App. 391, 430 S.E.2d 781 (1993).

14 [Everman v. Davis](#), 54 Ohio App. 3d 119, 561 N.E.2d 547 (2d Dist. Montgomery County 1989), dismissed, 43 Ohio St. 3d 702, 539 N.E.2d 163 (1989).

15 As to the coroner's report, see § 16.  
[Jackson v. Rupp](#), 228 So. 2d 916 (Fla. 4th DCA 1969), decision aff'd, 238 So. 2d 86 (Fla. 1970); [Crenshaw v. O'Connell](#), 235 Mo. App. 1085, 150 S.W.2d 489 (1941).

16 [Lee v. Weston](#), 402 N.E.2d 23 (Ind. Ct. App. 1980).  
A statute requiring the coroner to conduct an autopsy if there was a reasonable belief that the violation of a criminal statute contributed to the death did not impose a duty on the coroner to conduct an autopsy for the benefit of a nursing home resident's survivors and, thus, did not provide a private cause of action against the coroner for the refusal of a survivor's request to conduct an autopsy. [Sharp v. Belle Maison Nursing Home, Inc.](#), 960 So. 2d 166 (La. Ct. App. 1st Cir. 2007).

17                   Gahn v. Leary, 318 Mass. 425, 61 N.E.2d 844 (1945).  
18                   Huntly v. Zurich General Acc. & Liability Ins. Co., 100 Cal. App. 201, 280 P. 163 (1st Dist. 1929).  
19                   Weberman v. Zugibe, 90 Misc. 2d 254, 394 N.Y.S.2d 371 (Sup 1977).  
20                   Gahn v. Leary, 318 Mass. 425, 61 N.E.2d 844 (1945).  
21                   Wright v. Moss, 388 Ill. Dec. 795, 25 N.E.3d 78 (App. Ct. 5th Dist. 2015).  
22                   Brown v. Broome County, 8 N.Y.2d 330, 207 N.Y.S.2d 657, 170 N.E.2d 666, 83 A.L.R.2d 952 (1960); Darcy  
v. Presbyterian Hospital in City of New York, 202 N.Y. 259, 95 N.E. 695 (1911); Coty v. Baughman, 50  
S.D. 372, 210 N.W. 348, 48 A.L.R. 1205 (1926); Koerber v. Patek, 123 Wis. 453, 102 N.W. 40 (1905).  
23                   Sandy v. Board of Com'rs of Morgan County, 171 Ind. 674, 87 N.E. 131 (1909).  
As to liability for unauthorized or wrongful autopsy, see § 5.  
24                   Coty v. Baughman, 50 S.D. 372, 210 N.W. 348, 48 A.L.R. 1205 (1926).  
25                   Sandy v. Board of Com'rs of Morgan County, 171 Ind. 674, 87 N.E. 131 (1909); Crenshaw v. O'Connell,  
235 Mo. App. 1085, 150 S.W.2d 489 (1941).  
26                   Weberman v. Zugibe, 90 Misc. 2d 254, 394 N.Y.S.2d 371 (Sup 1977).  
27                   Wilensky v. Greco, 74 Misc. 2d 512, 344 N.Y.S.2d 77 (Sup 1973).  
28                   Snyder v. Holy Cross Hospital, 30 Md. App. 317, 352 A.2d 334 (1976).  
As to discovery and inspection of autopsy reports in criminal proceedings, see Am. Jur. 2d, Depositions  
and Discovery § 281.  
29                   Harris-Cunningham v. Medical Examiner of New York County, 261 A.D.2d 285, 690 N.Y.S.2d 253 (1st  
Dep't 1999).  
The burden is upon a decedent's next of kin to convey a religious objection to the performance of an autopsy  
to the medical examiner's office. Dick v. City of New York, 2002 WL 31844745 (N.Y. Sup 2002).  
30                   Shipley v. City of New York, 80 A.D.3d 171, 908 N.Y.S.2d 425 (2d Dep't 2010).

## 18 Am. Jur. 2d Coroners § 11

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### Coroners or Medical Examiners

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#### II. Inquests

### § 11. Right to counsel and public hearing

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An accused or suspected person has no right to appear by counsel at a coroner's inquest or to cross-examine witnesses<sup>1</sup> unless such right is conferred by statute.<sup>2</sup> An accused's charge that he or she was deprived of a right by not being permitted at a coroner's inquest is without merit where there is no provision requiring his or her attendance.<sup>3</sup> Since an inquest is not a trial, a suspected person is not entitled to counsel as a matter of constitutional right.<sup>4</sup> The absence of counsel for one subpoenaed and suspected of homicide may be pertinent in determining whether the person thus subpoenaed has been denied his or her constitutional privilege against self-incrimination.<sup>5</sup>

An inquest comes within the spirit of a constitutional provision that "all courts shall be public" and that a coroner is not authorized to refuse the public the right of attending.<sup>6</sup> However, the coroner, if he deems proper, may hold the inquest in private.<sup>7</sup> Although an inquest may uncover facts that lead to the prosecution of a person for homicide, the coroner has no law-enforcement authority and the verdict of a coroner's inquest is merely advisory to officers charged with the execution of public laws and does not amount to a formal charging or indictment.<sup>8</sup>

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#### Footnotes

1

[Aetna Life Ins. Co. v. Milward](#), 118 Ky. 716, 26 Ky. L. Rptr. 589, 82 S.W. 364 (1904).

The only object that a suspected person could have in appearing by counsel would be to prevent a full investigation insofar as it might tend to incriminate him and then defeat the purpose of the inquest. [State v. Griffin](#), 98 S.C. 105, 82 S.E. 254 (1914).

2

[Boehme v. Sovereign Camp Woodmen of the World](#), 98 Tex. 376, 84 S.W. 422 (1905).

3

[State v. Maloney](#), 434 S.W.2d 487 (Mo. 1968).

4

[People v. Coker](#), 104 Cal. App. 2d 224, 231 P.2d 81 (4th Dist. 1951).

5 State v. Halvorsen, 79 S.D. 209, 110 N.W.2d 132 (1961).

6 State v. Griffin, 98 S.C. 105, 82 S.E. 254 (1914).

A coroner's inquest constitutes a "meeting" within the meaning of the Open Meetings Act. *Kilgore v. R.W. Page Corp.*, 261 Ga. 410, 405 S.E.2d 655 (1991).

Boehme v. Sovereign Camp Woodmen of the World, 98 Tex. 376, 84 S.W. 422 (1905).

<sup>8</sup> Kilgore v. R.W. Page Corp., 261 Ga. 410, 405 S.E.2d 655 (1991).

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## 18 Am. Jur. 2d Coroners § 12

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#### § 12. Course and conduct of inquest, generally

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##### West's Key Number Digest

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##### Forms

Forms relating to coroner or medical examiner inquest, generally, see Am. Jur. Pleading and Practice Forms—Coroners or Medical Examiners [\[Westlaw® Search Query\]](#)

Forms relating to report of coroner's or medical examiner's inquest, generally, see Am. Jur. Legal Forms 2d—Coroners or Medical Examiners; Am. Jur. Pleading and Practice Forms—Coroners or Medical Examiners [\[Westlaw® Search Query\]](#)

A coroner's inquest is not a "trial court" as contemplated by the rule allowing trial courts to use jury sequestration or other means to exclude prejudicial matters from the jury's knowledge and consideration and to protect the defendant's right to a fair trial.<sup>1</sup> A coroner has no power to take an inquest without a view of the body, and any inquest taken without such view may be void.<sup>2</sup> The coroner is not limited to describing only physical or physiological facts with respect to the manner and mode of death.<sup>3</sup> Since a coroner is a medical expert rendering an expert opinion on a medical question, to rebut a coroner's determination as expressed in the coroner's report and death certificate, competent, credible evidence must be presented.<sup>4</sup> A coroner is required to perform functions for the welfare of society and in the interest of public justice but not for private interests.<sup>5</sup>

The coroner may be authorized by statute to issue subpoenas and to punish for contempt witnesses who refuse to attend or testify.<sup>6</sup> A witness may, however, refuse to answer any question tending to incriminate him or her.<sup>7</sup>

An officer who holds an inquest has the duty to make a written record of the proceedings<sup>8</sup> or may authorize the coroner to employ a clerk or stenographer for the purpose of reporting the inquest.<sup>9</sup>

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Footnotes

1                   [Kilgore v. R.W. Page Corp.](#), 259 Ga. 556, 385 S.E.2d 406 (1989).  
As to the coroner's jury, see § 13.

2                   [People v. Jackson](#), 191 N.Y. 293, 84 N.E. 65 (1908).  
A coroner has no right by virtue of his office to hold an inquest alone. [Lancaster County v. Holyoke](#), 37 Neb. 328, 55 N.W. 950 (1893).

3                   State ex rel. [Blair v. Balraj](#), 69 Ohio St. 3d 310, 1994-Ohio-40, 631 N.E.2d 1044 (1994).

4                   [Vargo v. Travelers Ins. Co., Inc.](#), 34 Ohio St. 3d 27, 516 N.E.2d 226 (1987).

5                   [LeJeune v. Causey](#), 634 So. 2d 34 (La. Ct. App. 1st Cir. 1994).

6                   [Kuhlman v. Superior Court of City & County of San Francisco](#), 122 Cal. 636, 55 P. 589 (1898); [Cox v. Royal Tribe of Joseph](#), 42 Or. 365, 71 P. 73 (1903).

7                   [People v. Ferola](#), 215 N.Y. 285, 109 N.E. 500 (1915); [State v. Halvorsen](#), 79 S.D. 209, 110 N.W.2d 132 (1961).  
If a justice of the peace acting as coroner permits illegal questions to be asked of a witness, attempts to force answers to them, and commits the witness for contempt for refusing to answer such questions, the remedy of the witness is by habeas corpus. However, a witness will not be allowed immunity because of having been compelled by a justice of the peace to answer incriminating questions since this would allow the justice to do indirectly that which he or she cannot do directly. [Faucett v. State](#), 1913 OK CR 269, 10 Okla. Crim. 111, 134 P. 839 (1913).

8                   [Aetna Life Ins. Co. v. Love](#), 149 S.W.2d 1071 (Tex. Civ. App. El Paso 1941), writ dismissed, judgment correct.

9                   [McNeil v. Board of Retirement, Stanislaus County](#), 51 Cal. 2d 278, 332 P.2d 281 (1958).

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## 18 Am. Jur. 2d Coroners § 13

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### Coroners or Medical Examiners

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### § 13. Jury

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#### Forms

Forms relating to coroner or medical examiner inquest, generally, see Am. Jur. Pleading and Practice Forms—Coroners or Medical Examiners [\[Westlaw® Search Query\]](#)

Forms relating to report of coroner's or medical examiner's inquest, generally, see Am. Jur. Legal Forms 2d—Coroners or Medical Examiners; Am. Jur. Pleading and Practice Forms—Coroners or Medical Examiners [\[Westlaw® Search Query\]](#)

The duty of the coroner to summon a jury and the duties of the jurors are determined by statutory provisions, which must be complied with.<sup>1</sup> In general, it is the jury's duty under such statutes diligently to inquire how, in what manner, and by whom or what the body that lies dead came to its death, and into all material circumstances connected with the death, and to make up and sign a verdict and deliver it to the coroner.<sup>2</sup> The coroner, before he or she summons a jury, must make some inquiry and if, on that inquiry, he or she finds that the circumstances that occasioned the death happened out of his or her jurisdiction or that there is no reasonable suspicion of criminal conduct, he or she ought to abstain from summoning a jury. If, however, the coroner has reason to suspect that murder or manslaughter has been committed or if it does not appear on inquiry by him or her that the circumstances occurred outside his or her jurisdiction, he or she is bound to summon a jury.<sup>3</sup> A postmortem examination should not be made in the presence of the jury. The jurors should be instructed from the testimony of the physicians who are designated by the coroner to make the examination.<sup>4</sup>

Footnotes

1 Peoria Cordage Co. v. Industrial Board of Ill., 284 Ill. 90, 119 N.E. 996 (1918); Darcy v. Presbyterian Hospital in City of New York, 202 N.Y. 259, 95 N.E. 695 (1911); Cox v. Royal Tribe of Joseph, 42 Or. 365, 71 P. 73 (1903).  
The trial court did not impermissibly apply, in a conclusive manner, a statute providing that the coroner's report was a legally accepted manner of death absent other competent, credible evidence; the jury was instructed to independently weigh and evaluate all witnesses and evidence in making its determination on the cause of death. *Vargo v. Travelers Ins. Co., Inc.*, 34 Ohio St. 3d 27, 516 N.E.2d 226 (1987).  
As to the summoning of a jury, see *Am. Jur. 2d, Jury* § 122.

2 Peoria Cordage Co. v. Industrial Board of Ill., 284 Ill. 90, 119 N.E. 996 (1918).

3 Young v. Pulaski County, 74 Ark. 183, 85 S.W. 229 (1905); Stults v. Board of Com'rs of Allen County, 168 Ind. 539, 81 N.E. 471 (1907).  
By statute, a coroner is commanded to make an investigation whenever it appears that the deceased probably came to his death by criminal act. He or she is not required to summon a jury unless satisfied from his or her personal investigation that death was the result of criminal conduct. *Gillikin v. U. S. Fidelity & Guaranty Co. of Baltimore, Md.*, 254 N.C. 247, 118 S.E.2d 606 (1961).

4 People v. Fitzgerald, 105 N.Y. 146, 11 N.E. 378 (1887).

## 18 Am. Jur. 2d Coroners § 14

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#### § 14. Physician summoned or employed by coroner

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##### Trial Strategy

[Qualification of Medical Expert Witness, 33 Am. Jur. Proof of Facts 2d 179](#)

##### Forms

Forms relating to physician, generally, see Am. Jur. Pleading and Practice Forms—Coroners or Medical Examiners  
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Only licensed physicians may be employed to perform duties that come within the jurisdiction of the chief medical examiner, and the examiner may not assign medical assistants and registered nurse practitioners to investigate death scenes.<sup>1</sup> A coroner, while holding an inquest, may summon a physician to testify and compel the physician to swear to his or her opinion on a superficial view of the body, but the coroner cannot compel the physician to touch it or do the more nauseous and dangerous work of opening it.<sup>2</sup> Nevertheless, since the coroner is authorized to ascertain the truth concerning the death, he or she has authority in such cases to employ a physician or surgeon to make the autopsy and ascertain the cause of death.<sup>3</sup> This authority in most states is confirmed by statute.<sup>4</sup> Where a surgeon or physician is required to attend an inquest and make a postmortem examination, the coroner must certify such service to the board of county commissioners.<sup>5</sup> Where it is not supposed that death

has resulted from violence or casualty within the terms of the statute authorizing inquests and where there is no reasonable ground for so supposing, a physician who has performed an autopsy is not entitled to recover fees against the county even though such autopsy was performed under the order and at the direction of the coroner. In such case, the county is not estopped by the unauthorized acts of the coroner.<sup>6</sup> An invalid or unauthorized order for an autopsy issued by a coroner does not protect the physician against liability for performing an autopsy.<sup>7</sup>

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Footnotes

1 Liebowitz v. Hirsch, 167 A.D.2d 298, 562 N.Y.S.2d 41 (1st Dep't 1990).

2 St. Francis County v. Cummings, 55 Ark. 419, 18 S.W. 461 (1892).

The employment of a physician by a coroner to conduct postmortem examinations may be a necessary expense incident to the administration of the office, payment for which may be enforced from the county by the physician. *People ex rel. Goodwin v. Coler*, 48 A.D. 492, 62 N.Y.S. 964 (2d Dep't 1900).

3 *Darcy v. Presbyterian Hospital in City of New York*, 202 N.Y. 259, 95 N.E. 695 (1911); *Cox v. Royal Tribe of Joseph*, 42 Or. 365, 71 P. 73 (1903).

4 *Stults v. Board of Com'rs of Allen County*, 168 Ind. 539, 81 N.E. 471 (1907); *Darcy v. Presbyterian Hospital in City of New York*, 202 N.Y. 259, 95 N.E. 695 (1911).

5 *Stults v. Board of Com'rs of Allen County*, 168 Ind. 539, 81 N.E. 471 (1907).

6 *Sandy v. Board of Com'rs of Morgan County*, 171 Ind. 674, 87 N.E. 131 (1909).

7 *Streipe v. Liberty Mut. Ins. Co.*, 243 Ky. 15, 47 S.W.2d 1004 (1932); *Gurganious v. Simpson*, 213 N.C. 613, 197 S.E. 163 (1938).

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## 18 Am. Jur. 2d Coroners § 15

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#### § 15. Verdict

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Admissibility of testimony of coroner or mortician as to cause of death in homicide prosecution, [71 A.L.R.3d 1265](#)  
Reviewing, setting aside, or quashing of verdict at coroner's inquest, [78 A.L.R.2d 1218](#)

##### Forms

Forms relating to verdict, see Am. Jur. Pleading and Practice Forms—Coroners or Medical Examiners [\[Westlaw® Search Query\]](#)

An inquest is only a preliminary investigation and not a trial on the merits; a coroner's findings are binding on no one as a judgment.<sup>1</sup> It is merely advisory and has itself no probative effect as evidence.<sup>2</sup> A coroner's verdict establishes the physiological cause of death and immediate mechanical, chemical, or biological means by which death was caused<sup>3</sup> but does not attach any criminal responsibility or nonresponsibility of any human agency involved in the causal chain.<sup>4</sup> The sole purpose of the office of the chief medical examiner's (OCME's) investigation is to give an impartial scientific determination of the cause of a person's death and not to determine whether the individual is guilty, or not guilty, of a crime. Thus, the OCME's connection with any criminal prosecution is merely an incident of its duty to render impartial, scientific determinations with respect to the

cause of a person's death and related matters of forensic science.<sup>5</sup> The medical examiner's certification of the cause of death is a discretionary one, and the scope of trial-court review is limited to whether that discretion was exercised arbitrarily and capriciously.<sup>6</sup> In an arguable situation capable of sustaining different inferences, a medical examiner's determination of the cause of death must be sustained unless it is arbitrary.<sup>7</sup>

Although the prosecutor may use the information learned from the coroner inquest in making charging decisions, the inquest results are not binding on anyone.<sup>8</sup> Likewise, the finding of the jury is merely advisory to the public authorities charged with the administration of the criminal law.<sup>9</sup> However, portions of the evidence given at the inquest may sometimes be admissible at the trial of the accused.<sup>10</sup>

**Practice Tip:**

The coroner's designation is the legally accepted cause of death unless the court directs the coroner to change the cause of death on the death certificate. The party seeking the change has the burden of proof by a preponderance of evidence.<sup>11</sup>

## CUMULATIVE SUPPLEMENT

### Cases:

Verdict and case docket prepared by county coroner following her examination of body of woman shot by law enforcement adequately described the "cause and manner of death," as required by statute; the coroner included a reason for death, that is, blood loss resulting from gunshot wounds, and explained the injuries that caused the fatal blood loss, and coroner was not statutorily required to include additional details regarding bullet trajectories or diagrams when listing the cause of death. [Wyo. Stat. Ann. § 7-4-105\(a\)](#). *Williams v. Sundstrom*, 2016 WY 122, 385 P.3d 789 (Wyo. 2016).

## [END OF SUPPLEMENT]

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### Footnotes

- 1 [Com. v. Martin](#), 1999 PA Super 29, 727 A.2d 1136 (1999) (overruled on other grounds by, [Com. v. Mouzon](#), 571 Pa. 419, 812 A.2d 617 (2002)).
- 2 [Com. ex rel. Czako v. Maroney](#), 412 Pa. 448, 194 A.2d 867 (1963).
- 3 [State v. Beaver](#), 119 Ohio App. 3d 385, 695 N.E.2d 332 (11th Dist. Trumbull County 1997).
- 4 [State v. Stewart](#), 2002-Ohio-3842, 2002 WL 1745655 (Ohio Ct. App. 11th Dist. Ashtabula County 2002). A statute governing a coroner's verdict as to the legally accepted cause of death prescribes presumptive value to be accorded the coroner's verdict. [Perez v. Cleveland](#), 78 Ohio St. 3d 376, 1997-Ohio-33, 678 N.E.2d 537 (1997).

5                   People v. Smith, 206 A.D.2d 102, 618 N.Y.S.2d 649 (1st Dep't 1994), aff'd, 85 N.Y.2d 1016, 630 N.Y.S.2d 971, 654 N.E.2d 1219 (1995) and order aff'd, 85 N.Y.2d 1018, 631 N.Y.S.2d 280, 655 N.E.2d 393 (1995) and order aff'd, 85 N.Y.2d 1019, 631 N.Y.S.2d 280, 655 N.E.2d 394 (1995) and order aff'd, 85 N.Y.2d 1020, 631 N.Y.S.2d 281, 655 N.E.2d 394 (1995).

6                   State v. Reay, 61 Wash. App. 141, 810 P.2d 512 (Div. 1 1991).

7                   Infante v. Dignan, 12 N.Y.3d 336, 879 N.Y.S.2d 824, 907 N.E.2d 702 (2009).

8                   In re Boston, 112 Wash. App. 114, 47 P.3d 956 (Div. 1 2002).

9                   Peoria Cordage Co. v. Industrial Board of Ill., 284 Ill. 90, 119 N.E. 996 (1918); Com. ex rel. Czako v. Maroney, 412 Pa. 448, 194 A.2d 867 (1963); Com. ex rel. Tanner v. Ashe, 365 Pa. 419, 76 A.2d 210 (1950). The verdict of the jury, if no crime is found to have been committed, is merely returned into a court of record with no power of revision or approval. If a crime has been committed and a person is charged therewith, the verdict serves as an information on which a magistrate may issue a warrant of arrest and examine him concerning the charge. However, the inquisition has no probative value even in that proceeding, thereby rendering it wholly extrajudicial. Cox v. Royal Tribe of Joseph, 42 Or. 365, 71 P. 73 (1903).

10                  Smalls v. State, 101 Ga. 570, 28 S.E. 981 (1897).

As to the verdict at a coroner's inquest as evidence in civil actions, see [Am. Jur. 2d, Death § 328](#); [Am. Jur. 2d, Evidence § 288](#).

11                  Wyatt v. Williams, 669 So. 2d 1380 (La. Ct. App. 2d Cir. 1996).

## 18 Am. Jur. 2d Coroners § 16

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#### § 16. Coroner's findings or report

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##### Trial Strategy

[Autopsies, 98 Am. Jur. Proof of Facts 3d 87](#)§ 28

[Proof of Survivorship of Common Disaster, 56 Am. Jur. Proof of Facts 3d 255](#)§ 13 (Death certificate; coroner's report)

[Investigating the Civil Case; General Principles, 1 Am. Jur. Trials 357](#)§ 26 (Death certificates)

##### Forms

Forms relating to report of coroner's or medical examiner's inquest, generally, see Am. Jur. Legal Forms 2d—Coroners or Medical Examiners; Am. Jur. Pleading and Practice Forms—Coroners or Medical Examiners [\[Westlaw® Search Query\]](#)

Forms relating to death certificate, see Am. Jur. Legal Forms 2d—Coroners or Medical Examiners [\[Westlaw® Search Query\]](#)

Forms relating to autopsy reports, see Am. Jur. Legal Forms 2d—Coroners or Medical Examiners; Am. Jur. Pleading and Practice Forms—Coroners or Medical Examiners [\[Westlaw® Search Query\]](#)

It is usually required by statute that a coroner prepare and file findings, or a death certificate, or an official report concerning the cause of the death investigated, and other pertinent information.<sup>1</sup> However, such certificate, finding, or report is in no sense a final judgment of guilt or innocence and, indeed, is not even equal to the decision of an examining magistrate.<sup>2</sup>

Res judicata does not bar a coroner from reopening his or her determination and amending a decedent's autopsy report by changing the cause of death.<sup>3</sup>

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Footnotes

1                   State ex rel. Mahon v. Cary, 143 Fla. 330, 196 So. 694 (1940); State v. Stewart, 46 So. 3d 714 (La. Ct. App. 2d Cir. 2010), writ denied, 71 So. 3d 273 (La. 2011); State v. Sharp, 162 Ohio St. 173, 55 Ohio Op. 88, 122 N.E.2d 684 (1954).  
As to the verdict at a coroner's inquest as evidence in civil actions, see [Am. Jur. 2d, Death § 366](#); [Am. Jur. 2d, Evidence § 281](#); and [Am. Jur. 2d, Insurance § 2007](#).  
As to the official death certificate as evidence of cause of death in civil and criminal actions, see [Am. Jur. 2d, Death § 328](#); and [Am. Jur. 2d, Evidence § 288](#).

2                   Hendrickson v. People, 10 N.Y. 13, 9 How. Pr. 155, 1854 WL 5933 (1854).  
As to the coroner's jury, see [§ 13](#).  
As to setting aside a verdict, see [§ 15](#).

3                   Cavaliere v. Suffolk County, 114 A.D.3d 677, 979 N.Y.S.2d 670 (2d Dep't 2014).

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## 18 Am. Jur. 2d Coroners Correlation Table

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